

DATE: September 14, 2021

FILE: 3090-20/DV 2B 21

TO: Chair and Members
Electoral Areas Services Committee

FROM: James Warren
Deputy Chief Administrative Officer

Supported by James Warren
Deputy Chief Administrative Officer

J. Warren

**RE: Development Variance Permit – 2113 Austin Road (Henderson/Gordon)
Lazo North (Electoral Area B)
Lot 12, District Lot 206, Comox District, Plan 30535, PID 001-251-333**

Purpose

To consider a Development Variance Permit (DVP) application to reduce the rear yard setback for a proposed secondary dwelling and legalize an existing exterior staircase (Appendix A).

Recommendation from the Deputy Chief Administrative Officer:

THAT the Comox Valley Regional District Board approve the Development Variance Permit DV 2B 21 (Henderson/Gordon) to reduce the rear yard setback for a secondary dwelling from 7.5 metres to 3.0 metres for the foundation, and from 5.5 metres to 2.4 metres for the eaves, and to reduce the side yard setback for an existing exterior staircase attached to the principal dwelling from 1.15 metres to 0.8 metres for property described as Lot 12, District Lot 206, Comox District, Plan 30535, PID 001-251-333 (2113 Austin Road);

AND FINALLY THAT the Corporate Legislative Officer be authorized to execute the permit.

Executive Summary

- A DVP application has been received to reduce the rear yard setback for a proposed secondary dwelling from 7.5 metres to 3.0 metres for the foundation, and from 5.5 metres to 2.4 metres for the eaves, and to reduce the side yard setback for an existing external staircase attached to the principal dwelling from 1.15 metres to 0.8 metres.
- The Advisory Planning Commission (APC) for Area B considered the file at their August 31, 2021 meeting, voting to support the application going forward. Additionally, adjacent property owners within a 100 metre radius were notified of the variance request and were provided an opportunity to comment on the request.
- Staff are recommending that the variance be approved as there is sufficient space to maintain the structure, it is unlikely to detract from the rural form and character of the neighbourhood, and privacy concerns can be mitigated via screening measures.

Prepared by:

D. Thiessen

Dylan Thiessen, MA, MCP
Planner

Concurrence:

T. Trieu

Ton Trieu, RPP, MCIP
Manager of Planning Services

Concurrence:

A. Mullaly

Alana Mullaly, RPP, MCIP
General Manager of
Planning and Development
Services

Government Partners and Stakeholder Distribution (Upon Agenda Publication)

Applicant	✓
-----------	---

Background/Current Situation

An application has been received to consider a Development Variance Application for the property located at 2113 Austin Road. The subject property is zoned Country Residential One (CR-1) and is designated as being within a Settlement Expansion Area (SEA). The property is approximately 0.1 hectare in size and current development includes a single detached dwelling, detached garage, and several small outbuildings (Figures 1 and 2). The front half of the property has a gentle slope from north to south (front to rear) before levelling out, and has trees and vegetation throughout the front third of the property.

The variance requested is to reduce the rear yard setback for a proposed secondary dwelling, and to reduce the side yard setback for a staircase on the exterior of a principal dwelling (Figures 3 and 4). There is an existing non-conforming garage with minimal setbacks in the southeast corner of the lot which will be demolished and rebuilt to respect the minimum setbacks. The specific variances being requested are outlined in the Zoning Bylaw section below. Minimum setbacks are stipulated for numerous reasons. While sightlines and safety concerns do not factor in as much for lot lines not adjacent to roadways, side and rear lot line setbacks still help ensure privacy between neighbouring properties and ensure that the maintenance of the structure in question is possible. The applicants are proposing the variance in order to create additional separation between the principal dwelling and secondary dwelling, and in order to avoid encroaching too closely to the septic field.

Policy Analysis

Section 498 of the *Local Government Act* (RSBC, 2015, c.1) (LGA) authorizes a local government to consider the issuance of a DVP that varies the provision of a bylaw, provided that the use or density of the land is not being varied, the land is not in a designated floodplain, or the development is not part of a phased development agreement.

Official Community Plan and Regional Growth Strategy Analysis

Both Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy, Bylaw No. 120, 2010,” and Bylaw No. 337, being the “Rural Comox Valley Official Community Plan, Bylaw No. 337, 2014,” designate this property as being within the SEA. The SEA land use designation is provided for properties near a municipal boundary and the development of the area through subdivision or rezoning is strongly discouraged until the lands in question are incorporated into a municipality. The proposed development does not conflict with the residential goals, policies or objectives contained within either Bylaw No. 120 or Bylaw No. 337.

Zoning Bylaw Analysis

Per Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the subject property is zoned CR-1. The variances being sought are summarized in Table 1, below.

Table 1: Variance Summary

Zoning Bylaw	Variance	Zoning	Proposed	Difference
Proposed Secondary Dwelling				
Section 703 (5)	Rear yard setback	7.5 metres	3.0 metres	4.5 metres
Section 403 (1)	Siting exemptions	5.5 metres	2.4 metres	3.1 metres
Principal dwelling (staircase)				
Section 403 (1)	Siting exemptions	1.15 metres	0.8 metres	0.35 metres

The existing garage with the 0.3 metre setbacks is the building that will be relocated in a way that respects the minimum setback requirements.

Recommendation and Rationale

Staff are in support of the application and are recommending that the Electoral Area Services Committee (EASC) approve the application for the following reasons:

1. The proposed development is not likely to alter the rural form and character of the neighbourhood or surrounding development.
2. The proposed setback leaves sufficient space for the maintenance of the building.
3. A large tree and existing vegetation along the rear property line will remain in place and not be removed during construction, helping offset privacy concerns that may arise through a setback variance request.

Options

The EASC can either approve or deny the requested variance. Based on the analysis above, staff recommend approving the setback variance.

Financial Factors

Applicable fees have been collected for this application under the “Comox Valley Planning Procedures and Fees Bylaw No. 328, 2014.”

Legal Factors

This report and the recommendations contained herein are in compliance with the LGA and applicable Comox Valley Regional District (CVRD) bylaws. DVPS are permitted in certain circumstances under Section 498 of the LGA.

Regional Growth Strategy Implications

This application does not have any implications for the Regional Growth Strategy, as the variance requested does not conflict with any of the residential policies, principles, or objectives outlined within Bylaw No. 120.

Intergovernmental Factors

There are no intergovernmental factors with respect to this application.

Interdepartmental Involvement

This application was referred to staff within the bylaw enforcement, fire services, and building departments to provide staff an opportunity to comment on the application. No concerns were raised.

Citizen/Public Relations

The APC for Electoral Area B considered this application at their meeting held on August 31, 2021. The APC decided to support the application, noting that there was sufficient information to assess the application and that it is reasonable to maintain more distance between the principal dwelling and secondary dwelling than what the 7.5 metre setback would allow.

Further, notice of the requested variance was mailed to adjacent property owners within 100 metres of the subject property at least 10 days prior to the EASC meeting. This notice informs those property owners and/or tenants as to the purpose of the application and permit, the land that is the subject of the permit, and that further information on the proposed permit is available at the CVRD office. It also provided the date and time of the EASC meeting where the permit will be considered.

Consultation with these property owners and/or tenants is through their written comments received prior to the EASC meeting or their attendance at the EASC meeting.

Attachments: Appendix A – “Development Variance Permit DV 2B 21”

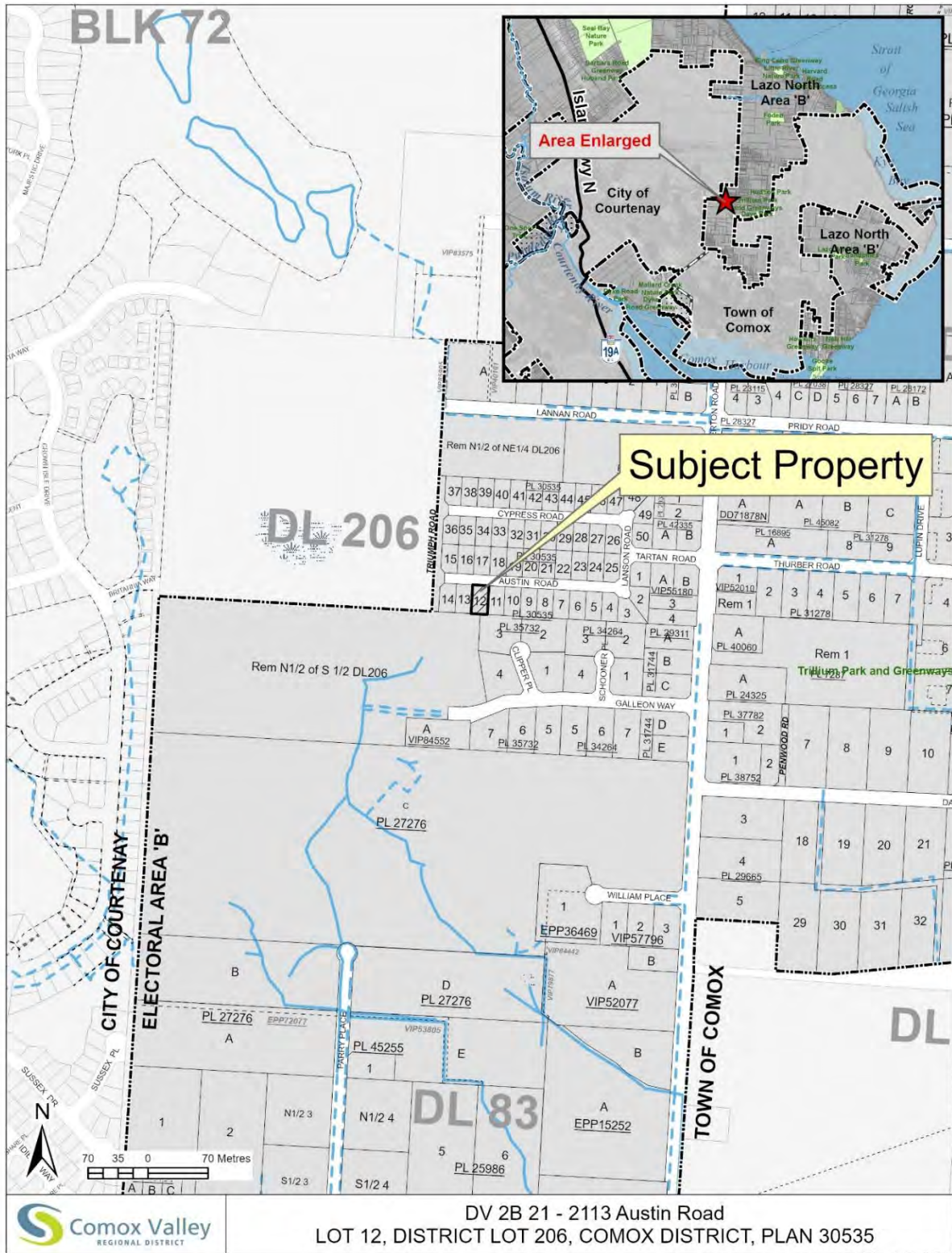


Figure 1: Subject Property Map



Figure 2: Air Photo

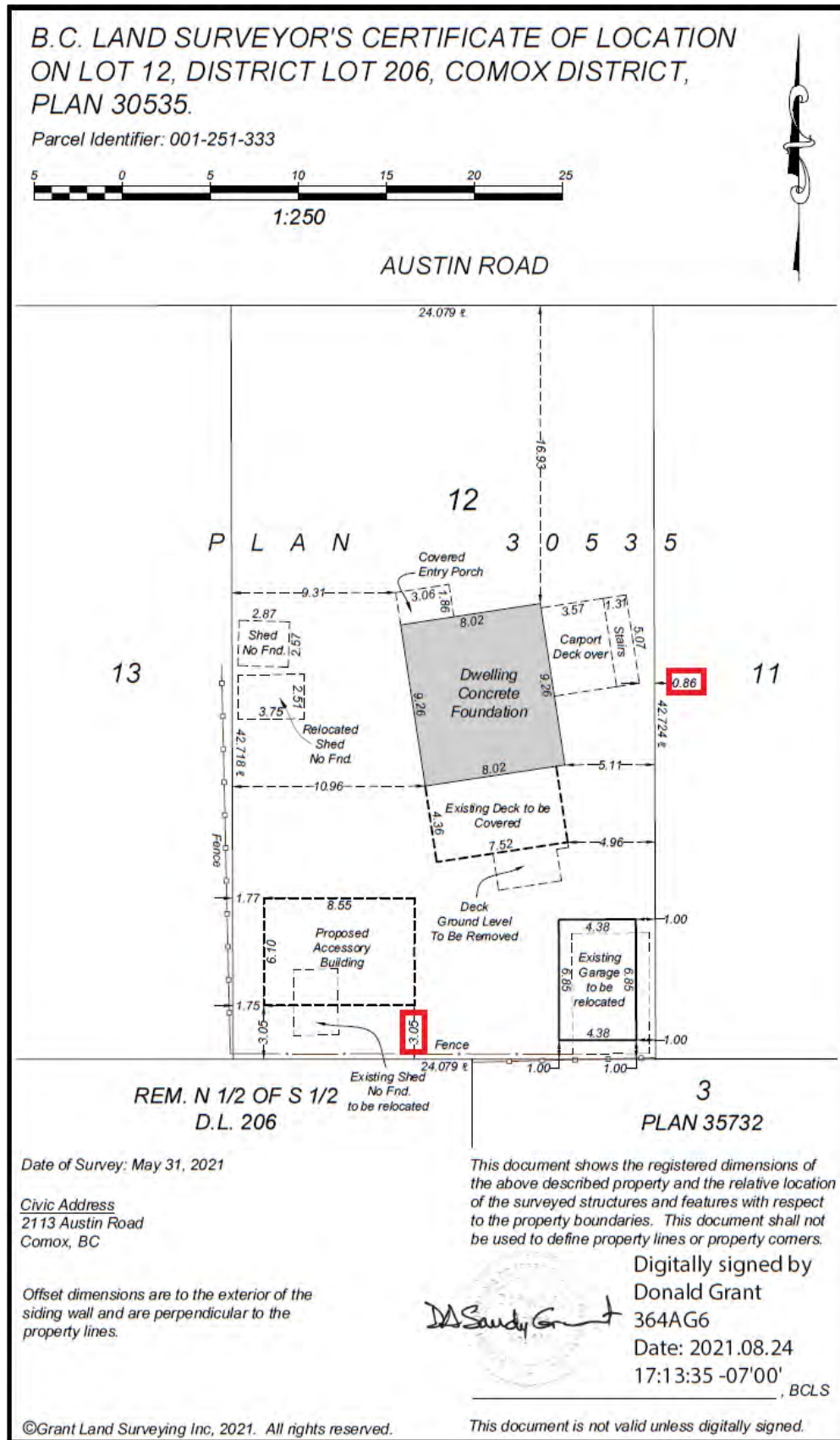


Figure 3: Site Plan



Figure 4: Image of Existing Staircase

DV 2B 21

TO: Sara Henderson and Shea Gordon

1. This Development Variance Permit (DV 2B 21) is issued subject to compliance with all of the bylaws of the Comox Valley Regional District applicable thereto, except as specifically varied or supplemented by this permit.
2. This Development Variance Permit applies to and only to those lands within the Comox Valley Regional District described below:
Legal Description: Lot 12, District Lot 206, Comox District, Plan 30535
Parcel Identifier (PID): 001-251-333 Folio: 03326.064
Civic Address: 2113 Austin Road
3. The land described herein shall be developed strictly in accordance with the following terms and provisions of this permit:
 - i. THAT the development shall be carried out according to the plans and specifications attached hereto which form a part of this permit as the attached Schedules A and B.
4. This Development Variance Permit is issued following the receipt of an appropriate site declaration from the property owner.
5. This Development Variance Permit (DV 2B 21) shall lapse if construction is not substantially commenced within two (2) years of the Comox Valley Regional District Board's resolution regarding issuance of the Development Variance Permit (see below). Lapsed permits cannot be renewed; therefore application for a new development permit must be made, and permit granted by the Comox Valley Regional District Board, in order to proceed.
6. This Development Variance Permit is *not* a Building Permit.

CERTIFIED as the **DEVELOPMENT VARIANCE PERMIT** issued by resolution of the board of the Comox Valley Regional District on _____.

Jake Martens
Deputy Corporate Legislative Officer

Certified on _____

Attachments: Schedule A – “Resolution”
Schedule B – “Subject Property Map, Air Photo, and Site Plan”

Schedule A

File: DV 2B 21

Applicants: Sara Henderson and Shea Gordon

Legal Description: Lot 12, District Lot 206, Comox District, Plan 30535

Specifications:

THAT WHEREAS pursuant to Section 703(5)(i) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the minimum front yard setback for principal dwellings on the property is 7.5 metres;

AND WHEREAS pursuant to Section 703(5)(i) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the minimum side yard setback for principal dwellings on the property is 1.75 metres;

AND WHEREAS pursuant to Section 403(1) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the minimum side yard setback for exterior and attached staircases to a dwelling is 1.15 metres;

AND WHEREAS pursuant to Section 403(1) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the minimum front yard setback for features of construction that protrude toward the lot line without incorporating floor area is 5.5 meters;

AND WHEREAS pursuant to Section 315(2)(i) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the siting of a carriage house shall be in accordance with the principal structure setbacks;

AND FINALLY WHEREAS the applicants, Sara Henderson and Shea Gordon, wish to construct a secondary dwelling, shown on Schedule B, and legalize the existing exterior staircase attached to the principal dwelling, with the siting specifications listed below:

- Rear yard lot line setback of 3.0 metres as it pertains to the foundation of the secondary dwelling;
- Rear yard lot line setback of 2.4 metres as it pertains to the eaves of the secondary dwelling;
- Side yard setback of 0.8 metres as it pertains to the existing exterior staircase attached to the principal dwelling;

THEREFORE BY A RESOLUTION of the board of the Comox Valley Regional District on _____, the provisions of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” as they apply to the above-noted property are to be varied as follows:

701(5) “The minimum rear yard setback for the foundation of the secondary dwelling is 3.0 metres.”

403(1) “The minimum rear yard setback for the eaves of the secondary dwelling is 2.4 metres.”

403(1) “The minimum side yard setback for the existing exterior staircase attached to the principal dwelling is 0.8 metres.”

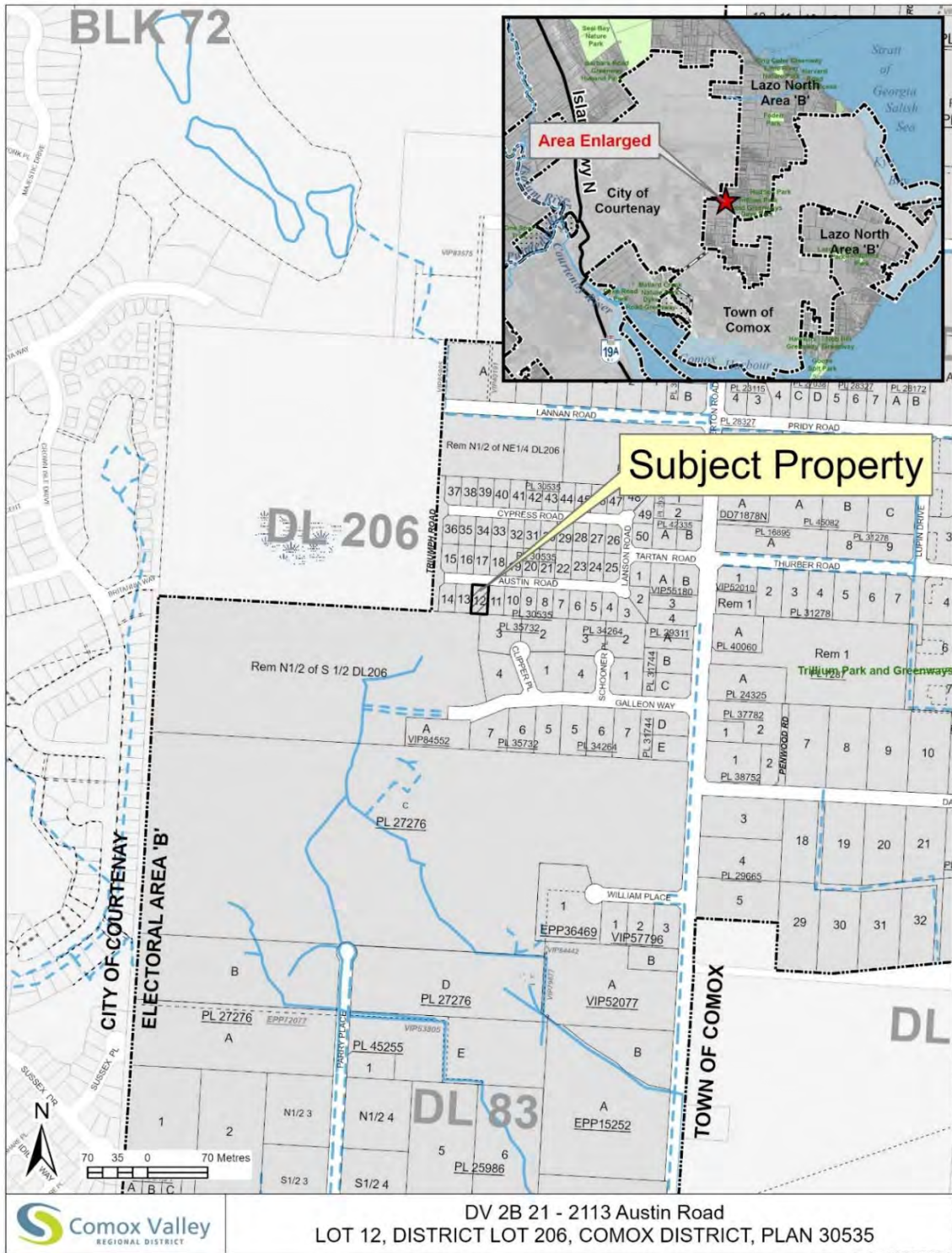
I HEREBY CERTIFY this copy to be a true and correct copy of Schedule A being the terms and conditions of Development Variance Permit File DV 2B 21.

Jake Martens
Deputy Corporate Legislative Officer

Certified on _____

DRAFT

Schedule B



Subject Property Map



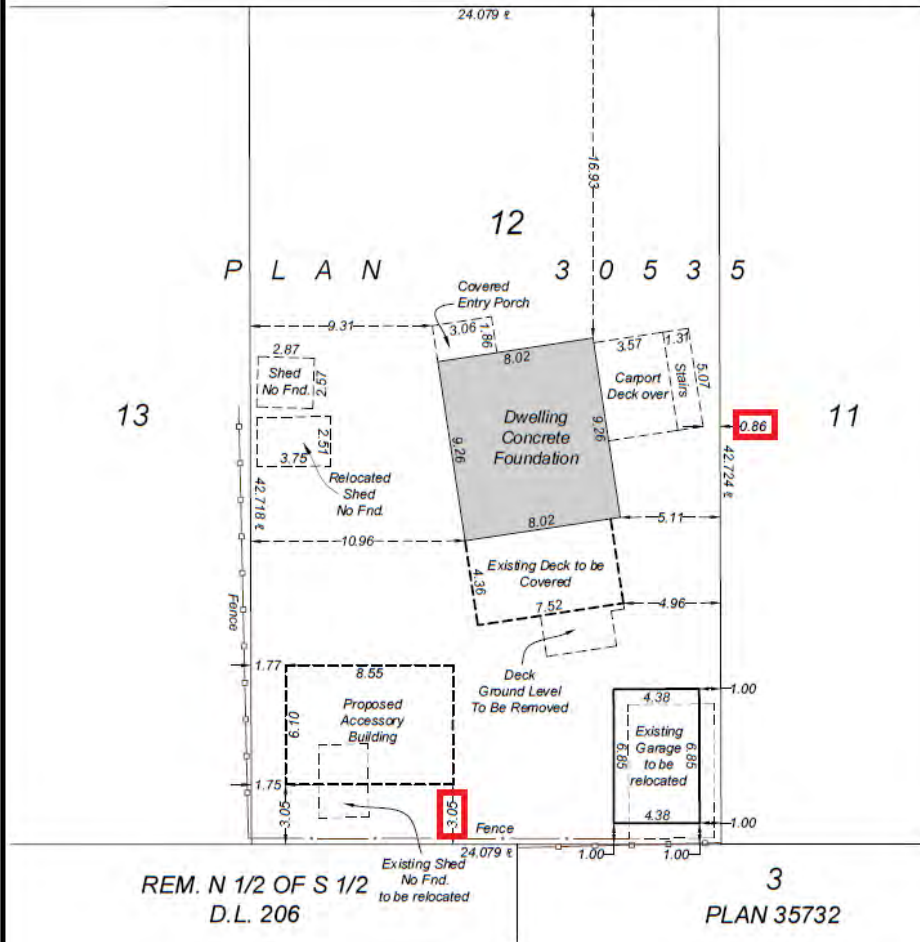
Air Photo

**B.C. LAND SURVEYOR'S CERTIFICATE OF LOCATION
ON LOT 12, DISTRICT LOT 206, COMOX DISTRICT,
PLAN 30535.**

Parcel Identifier: 001-251-333



AUSTIN ROAD



Date of Survey: May 31, 2021

Civic Address
2113 Austin Road
Comox, BC

Offset dimensions are to the exterior of the siding wall and are perpendicular to the property lines.

This document shows the registered dimensions of the above described property and the relative location of the surveyed structures and features with respect to the property boundaries. This document shall not be used to define property lines or property corners.

Donald Grant

Digitally signed by
Donald Grant
364AG6
Date: 2021.08.24
17:13:35 -07'00'

BCLS

©Grant Land Surveying Inc, 2021. All rights reserved.

This document is not valid unless digitally signed.

Site Plan



Image of Existing Staircase and Side Yard Setback